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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

EPIC GAMES, INC.

Plaintiff, Counter-defendant
v.

APPLE INC.,

Defendant, Counterclaimant

Case No. 4:20-cv-05640-YGR

**DECLARATION OF MARK A. PERRY IN
SUPPORT OF APPLE INC.'S MOTION
FOR RELIEF FROM THE JUDGMENT
UNDER FEDERAL RULE 60(B)**

The Honorable Yvonne Gonzalez Rogers
Hearing Date: November 12, 2024 (noticed date)
Hearing Time: 2:00pmPST
Courtroom 1, 4th Floor

I, Mark A. Perry, hereby declare as follows:

1. I am an attorney licensed to practice in the State of California, and a member of the Bar of this Court. I am a partner at the law firm Weil, Gotshal & Manges LLP, counsel of record for Apple Inc. (“Apple”) in this case. I have personal knowledge of the facts stated below and, if called as a witness, would testify competently thereto. I submit this declaration in support of Apple’s Motion for Relief from the Judgment Under Rule 60(b) (the “Motion”).

2. Attached hereto as Exhibit 1 is a true and correct copy of the Order Concerning Defendant Apple Inc.’s Demurrer to Plaintiffs’ Complaint, *Beverage v. Apple Inc.*, No. 20-cv-370535 (Cal. Sup. Ct. Feb. 4, 2022) (“*Beverage* First Trial Court Order”).

3. Attached hereto as Exhibit 2 is a true and correct copy of the Order Concerning Defendant Apple Inc.’s Demurrer to Plaintiffs’ Second Amended Complaint, *Beverage v. Apple Inc.*, No. 20-cv-370535 (Cal. Sup. Ct. Aug. 29, 2022) (“*Beverage* Second Trial Court Order”).

4. Attached hereto as Exhibit 3 is a true and correct copy of the California Court of Appeal’s decision in *Beverage v. Apple Inc.*, 101 Cal. App. 5th 736 (2024).

5. Attached hereto as Exhibit 4 is a true and correct copy of the California Supreme Court’s Order Denying Review, *Beverage v. Apple Inc.*, No. S285154 (Cal. July 10, 2024).

6. Attached hereto as Exhibit 5 is a true and correct of the Court of Appeal’s remittitur, entered on August 26, 2024.

7. Attached hereto as Exhibit 6 is a true and correct copy of the U.S. Supreme Court’s decision in *Murthy v. Missouri*, 144 S. Ct. 1972 (2024).

8. Attached hereto as Exhibit 7 is a true and correct copy of the U.S. Supreme Court’s docket in *Murthy v. Missouri*, 144 S. Ct. 1972 (2024), indicating that the Supreme Court issued its judgment on July 29, 2024.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct. Executed this 30th day of September 2024, in Washington, D.C.

Dated: September 30, 2024

/s/ Mark A. Perry
Mark A. Perry